

**TITLE 13**  
**DEBTOR AND CREDITOR RELATIONSHIP**  
**CHAPTER 13-01**  
**GENERAL PROVISIONS**

**13-01-01. Definitions of creditor and debtor.** In this chapter, unless the context or subject matter otherwise requires:

1. "Creditor" means one in whose favor an obligation exists by reason of which the person is or may become entitled to the payment of money.
2. "Debtor" means one who, by reason of an existing obligation, is or may become liable to pay money to another, whether such liability is certain or contingent.

**13-01-02. Debtor's contract valid in absence of fraud.** In the absence of fraud, every contract of a debtor is valid against all of the debtor's creditors, existing or subsequent, who have not acquired a lien on the property affected by the contract.

**13-01-03. Creditors may be preferred.** Except as otherwise provided in section 13-02.1-05, a debtor may pay one creditor in preference to another, or may give to one creditor security for the payment of that creditor's demand in preference to another.

**13-01-04. Marshalling funds - Rights of creditors.** When a creditor is entitled to resort to each of several funds for the satisfaction of the creditor's claim and another person has an interest in, or is entitled as a creditor to resort to, some but not all of them, the latter may require the former to seek satisfaction from those funds to which the latter has no such claim so far as it can be done without impairing the right of the former to complete satisfaction and without doing injustice to third persons. This section does not apply to execution sales of real estate mortgage foreclosures.

**13-01-05. Transfers with intent to defraud or delay creditors are void.** Repealed by S.L. 1985, ch. 186, § 12.

**13-01-06. Transfer of personalty without changing of possession or filing of instrument presumed fraudulent.** Repealed by S.L. 1985, ch. 186, § 12.

**13-01-07. Instruments affecting realty void when made with intent to defraud - Good-faith purchaser protected.** Repealed by S.L. 1985, ch. 186, § 12.

**13-01-08. When act of debtor void for fraud.** Repealed by S.L. 1985, ch. 186, § 12.

**13-01-09. Preference by special partnership or by member thereof - When void.** Repealed by S.L. 1985, ch. 186, § 12.

**13-01-10. Fraudulent intent a question of fact.** In all cases arising under the provisions of this chapter, the question of fraudulent intent is one of fact and not of law. No transfer or charge may be adjudged fraudulent solely on the ground that it was not made for a valuable consideration.

**13-01-11. Fraudulent conveyance - Penalty.** Any person who is a party to any conveyance or assignment of any interest in real or personal property entered into with intent to defraud prior or subsequent purchasers, creditors, or other persons except those with security interest in the property involved, who knowingly participates in such a conveyance or assignment, is guilty of a class A misdemeanor.

**13-01-12. Removing or disposing of property to defraud creditors - Penalty.** Every person who removes any of the person's property from a county with intent to prevent a levy

thereon under execution or attachment, or who secretes, assigns, conveys, or otherwise disposes of any of the person's property with intent to defraud any creditor or to prevent the property from being made liable for the payment of the person's debts, and every person who receives any property with such intent, is guilty of a class A misdemeanor.

**13-01-13. Unlawfully preferring creditors - Penalty.** Every person who, knowing that the person's property is insufficient for the payment of all of the person's lawful debts, shall assign, transfer, or deliver any property for the benefit of any creditor or creditors upon any trust or condition that any creditor shall receive a preference or priority over any other creditor, or with intent to create such a preference or priority, is guilty of a class A misdemeanor. This section does not apply to the giving or creating of preferences expressly allowed by law.

**13-01-14. Late payment charge on accounts receivable - Medical bills.**

1. A creditor may charge, receive, and collect a late payment charge on all money due on account from thirty days after the obligation of the debtor to pay has been incurred.
2. Except as provided in subsection 4, the late payment charge may not exceed one and three-fourths percent per month.
3. The late payment charge provided in this section may be charged only if, when the obligation was incurred, the creditor did not intend to extend any credit beyond thirty days and any late payment of the obligation was unanticipated.
4. A creditor may not charge, receive, or collect a late payment charge on medical or hospital bills during the initial ninety days following services. After the initial ninety days have passed, a late payment charge may be imposed at a rate that does not exceed one percent per month. A late payment charged by a hospital under this subsection may not exceed twenty-five dollars per month. This subsection does not apply in cases of financial hardship as certified by the creditor. A medical services provider may not charge, receive, or collect a credit service charge on money due on a revolving charge account under chapter 51-14.
5. Except as otherwise provided under subsection 4, this section does not apply to:
  - a. Money due on retail installment contracts, as defined in chapter 51-13.
  - b. Money due on revolving charge accounts, as defined in chapter 51-14.

**13-01-15. Periodic statement to be furnished to debtor.** A creditor may charge the late payment charge provided for in section 13-01-14 only if the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance. Such statement must recite the following:

1. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred.
2. The unpaid balance at the end of the period.
3. An identification of any amount debited to the debtor's account during the period.
4. The payments made by the debtor to the creditor during the period.
5. The amount of the late payment charge.

The items need not be stated in the sequence or order set forth above. Additional items may be included to explain the computations made in determining the amount to be paid by the debtor.